

UNITED STATES DISTRICT COURT  
DISTRICT OF MINNESOTA

James Randall Sanders,

Civil No. 04-3962 (PAM/RLE)

Plaintiff,

v.

**MEMORANDUM AND ORDER**

United States; Counselor Jack  
Bakker; Correctional Officer Karen  
Berro; and other unknown,

Defendants.

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This matter is before the Court on Plaintiff's objections to Chief Magistrate Judge Raymond L. Erickson's Report and Recommendation ("R&R") dated August 15, 2005. In the R&R, Magistrate Judge Erickson recommends that Defendants' Motion to Dismiss, or in the alternative, for Summary Judgment, be granted and that Plaintiff's Complaint be dismissed. The Court must conduct a de novo review of any portion of the Magistrate Judge's recommendation to which specific objections are made. 28 U.S.C. § 636(b)(1).

Magistrate Judge Erickson specifically found that Plaintiff failed to articulate a cognizable injury sufficient to state a constitutional violation. See Lewis v. Casey, 518 U.S. 343 (1996). Plaintiff specifically objects to this finding and insists that he has shown actual injury in accord with the standard outlined in Lewis. On careful review of the record, the Court finds that Magistrate Judge Erickson correctly concluded that Plaintiff failed to demonstrate that Defendants' conduct resulted in a cognizable injury to Plaintiff's right of access to the courts. Even assuming Plaintiff's allegations as true, Plaintiff nevertheless fails to establish that he has actually been prevented or otherwise deprived from presenting his legal claims to

the Court. Although Plaintiff complains about the time-consuming nature of his note taking, he plainly fails to show that Defendants' conduct has actually deprived him access to the courts. This failure is fatal to Plaintiff's claim.

The R&R is thorough and detailed. As the statute requires, the Court has conducted a de novo review of the record regarding Magistrate Judge Erickson's R&R. See 28 U.S.C. § 636(b)(1); D. Minn. L.R. 72.1(c). Based on that review, the Court concludes that the Magistrate Judge correctly determined that Defendants' Motion for Summary Judgment be granted and Plaintiff's Complaint be dismissed. Therefore, the Court **ADOPTS** the R&R.

Accordingly, based on all the files, records, and proceedings herein, **IT IS HEREBY ORDERED** that:

1. Defendants' Motion to Dismiss, or in the Alternative, for Summary Judgment (Clerk Doc. No. 23) is **GRANTED**; and
2. Plaintiff's Complaint is **DISMISSED with prejudice**.

**LET JUDGMENT BE ENTERED ACCORDINGLY.**

Dated: September 26, 2005

s/ Paul A. Magnuson  
Paul A. Magnuson  
United States District Court Judge